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HEWLETT-PACKARD COMPANY  
Intellectual Property Administration  
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EXAMINER
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SHEWAREGED, BETELHEM

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ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* TIENTEH CHEN

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Appeal 2009-014054  
Application 10/613,497  
Technology Center 1700

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Before BRADLEY R. GARRIS, LINDA M. GAUDETTE, and  
KAREN M. HASTINGS, *Administrative Patent Judges*.

GARRIS, *Administrative Patent Judge*.

DECISION ON APPEAL<sup>1</sup>

Appellant appeals under 35 U.S.C. § 134 from the Examiner's decision rejecting claims 1-10 under 35 U.S.C. § 103(a) as being unpatentable over Sismondi (US Patent 6,387,473 B1, issued May 2002) in view of Miller (US 2002/0142141 A1, published October 2002).

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<sup>1</sup> The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

We AFFIRM.

Appellant claims a print medium comprising an ink-receiving layer and a coated paperbase, the ink-receiving layer comprising a nonionic siloxane copolymer surfactant and a nonsiloxane surfactant, wherein the layer contains a greater total amount of the nonionic siloxane copolymer surfactant than the nonsiloxane surfactant (claim 1).

Representative claim 1 reads as follows:

1. A print medium comprising an ink-receiving layer and a coated paperbase, the ink-receiving layer comprising
  - at least one hydrophilic polymer,
  - at least one cross-linking agent,
  - at least one mordant,
  - inorganic particles,
  - at least one nonionic siloxane copolymer surfactant, and
  - at least one nonsiloxane surfactant,wherein the at least one hydrophilic polymer, the at least one nonionic siloxane copolymer surfactant, and the at least one nonsiloxane surfactant are bound together,
  - wherein said at least one nonsiloxane surfactant comprises a nonionic or anionic nonsiloxane surfactant and said layer contains a greater total amount of said nonionic siloxane copolymer surfactant than of said nonionic or anionic nonsiloxane surfactant by weight, and
  - wherein the at least one hydrophilic polymer is selected from the group consisting of polyvinyl alcohol, a copolymer of polyvinylalcohol with polyethyleneoxide, a copolymer of polyvinylalcohol with polyacrylic or maleic acid, acetoacetylated polyvinylalcohol, polyethylene oxide, hydroxylethyl cellulose, hydroxypropylmethyl cellulose, poly(N-ethyl-2-oxazoline), casein, starch, agar, carrageenan, cellulose, carboxymethyl cellulose, dextran, pullulan, gelatin, derivatives thereof, and mixtures thereof.

For the reasons explained in the Answer and below, we will sustain the Examiner's § 103 rejection.

Appellant argues that a person of ordinary skill in the art would not have had a reasonable expectation of success in combining the applied references in the manner proposed by the Examiner (App. Br. 13-15). We cannot agree.

As correctly explained by the Examiner, an artisan would have used Miller's nonionic siloxane surfactant as the nonionic surfactant required by Sismondi, based on a reasonable expectation of success, because the nonionic siloxane surfactant of Miller possesses the dynamic surface tension required by the nonionic surfactants of Sismondi (Ans. para. bridging 5-6). We acknowledge Appellant's observation that the surface tension of Miller's nonionic siloxane surfactant is disclosed in the subject Specification and not in the Miller reference (Reply Br. 4). However, this observation does not militate against an obviousness conclusion. As evidenced by Sismondi, the determination of dynamic surface tension values would have been within the skill of the artisan, and Appellant does not contend otherwise.

Appellant states that "the skilled person would have had no reasonable expectation that the resulting optimized and adjusted ink receptor sheet [of Sismondi as modified by Miller] would have the same relative amounts of siloxane and nonsiloxane surfactants as specified in claim 1" (App. Br. 14).

Significantly, Appellant offers no evidence or rationale in support of this statement. It follows that Appellant's statement is nothing more than an assertion with no convincing merit. On this record, it is undisputed that surfactant amounts were known in the prior art as result effective

parameters, and accordingly their optimization would have been within the skill of the artisan as properly concluded by the Examiner (Ans. para. bridging 4-5).

Finally, Appellant argues that the modification proposed by the Examiner would change the principle of operation of Sismondi (App. Br. 15-17).

This argument is unpersuasive because it is based on the incorrect premise that Sismondi's nonionic surfactants are limited to the nonionic hydrocarbon and fluorinated surfactants exemplified by Sismondi. Like the Examiner (Ans. para. bridging 5-6), we find no teaching or suggestion in Sismondi that the nonionic surfactants must be the exemplified hydrocarbon or fluorinated surfactants. Moreover, Appellant identifies no such teaching or suggestion.

For the reasons stated above and in the Answer, we sustain the § 103 rejection of all appealed claims as being unpatentable over Sismondi in view of Miller.

The decision of the Examiner is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

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Application 10/613,497

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